

Toxicology Advisory Board
Minutes
September 9, 2011

Location: State Department of Toxicology

Board Members Present: Linda Chezem, Dr. James Klaunig & Mike Medler

Other Attendees: Amy Summerfield, Melissa Garten, Stacy Uliana, Senator Tom Wyss, Mark McCordia, Cris Johnston, Gloria Downham, Ryan Klitzsch, Debbie Reasoner and Gary Brackett

1. Chezem convened the meeting and asked everyone to introduce themselves.
2. Minutes of August 19 meeting were distributed to Toxicology Advisory Board Members. Klaunig made a motion to approve the minutes as distributed. Medler seconded the motion. Motion unanimously approved.
3. Johnston provided an update from the Governor's Office on the status of the recommendations to the Governor by the Board. Recommendation #1 has been accomplished - Dr. Scott Kriger has been appointed Interim Director effective July 1, 2011 for a period of six months.

Recommendation #3 is being implemented. The State Financial System has ISDT set up and is ready for the ISDT to transition from IU to the State. No money from the State appropriation has been distributed this fiscal year. Funds from April – June 2011 were reverted to the State on June 30, 2011. Fund account balances as of August 31, 2011 were presented: State Appropriation Account - \$349,288; Tuition & Service Account - \$1,382,329; Toxicology Lab Account - \$76,510. Johnston noted that the ISDT State Appropriation Account fund balance will cover expenses for several months of FY2011 prior to drawing on that appropriation. The first two months of this fiscal year reflect lab fees paid to AIT and audit fees that will moderate in coming months but ongoing monitoring and forecasting will continue. ISDT maintains financial records on the IU School of Medical financial system under the MOU. Monthly spending reports are provided by Gary Brackett to the OMB.

Over 270 ISDT assets have been tagged (including the Intoximeters) and logged into the State inventory system. Johnston noted that the Intoximeters and printers have been relocated to the ISDT facility from the non-climate controlled facility saving ISDT \$675/month. The current BAC DataMasters will be tagged shortly. Senator Wyss asked about the process for implementing the Intoximeters. General discussion was held about the process for implementation (validation of instruments, training, input needed from stakeholders regarding the need for one or two breath tests, etc.).

The State Personnel Office has received job descriptions and information about benefits and is formulating a transition work plan. A meeting is set for Monday, September 12. Sebastian Smelko is conducting a search for a dedicated Associate General Counsel for ISDT. Senator Wyss questioned why the Attorney General Office's is not providing General Counsel for ISDT. Johnston stated that the Governor's Office believes that there is a need for a full-time Associate General Counsel for ISDT.

A working group including a team from the Indiana Office of Technology (IOT), Rob Lawson and Gary Brackett (ISDT) and Gloria Downham (OMB) are working through all the IT-related issues. Topics include: users/account management; databases; servers; website; disaster recovery; network/cabling/circuits; telephones; and HR and financial support systems. The Toxicology Advisory Board emphasized the need to have a security plan in place. Johnston reported that the State has security protocols.

Recommendation #5 – Johnston reported that a request was made to the Bureau of Justice to see if they would be willing to provide funding for the needs assessment of the ISDT by the National Forensic Science Technology Center (NFSTC). NFSTC is a 501(c)3 not-for-profit corporation that provides quality forensic services including training, assessment, research and technology assistance to the justice and forensic communities. Johnston reported that the Justice Bureau does not have funds available but that the Department of Administration has a special appropriation account that has agreed to fund the project. Johnston, Downham and Dr. Kriger met with representatives from NFSTC. NFSTC was asked to prepare a proposal refining the scope of the project for discussion and review. Senator Wyss asked about the status of a search for a permanent Director. Wyss expressed concern that the position not be a political appointee but someone who has the scientific background and qualifications of the position. Board Members stated that part of the NFSTC review would include a review of the current organization chart of ISDT. Board members have suggested that an administrative director be appointed and that a Chief Toxicologist be recruited to actually run the lab along with a couple of Assistant/Associate Toxicologists. The Board also recommends the implantation of a permanent Advisory Board. Chezem stated that the Board should be included in the discussions with representatives of NFSTC before a contract is signed. Board members asked about the timeframe for the assessment. Johnston reported that NFSTC stated the assessment could be completed in 4-6 weeks.

Recommendation #4 – Johnston reported that Dr. Klaunig has agreed to provide advice regarding the breath testing program. Dr. Kriger has provided the Board with a draft protocol to evaluate the Intoximeters. Once this evaluation is completed, an approved method will be drafted and feedback will be solicited from various stakeholders (prosecutors, law enforcement agencies, defense attorneys, etc.) so that IAC 260 can be

amended to provide for implementation of the new instruments. General discussion was held about whether or not one or two tests should be used. The DataMaster uses a single test.

Recommendation #2 – The paper audit was suspended until retesting of the problematic cases is conducted. Retesting will begin next week. Johnston reported that NMS is not an ISO 17025 certified laboratory. Medler made a motion to accept NMS Laboratory as a qualified laboratory to provide for the retesting of the samples. Klaunig seconded the motion. Motion unanimously approved. Senator Wyss asked that once the results are known that all parties review the data and put together a plan to publicize the information so that a unified communication is in place. Johnston reported that new letters have been drafted to be sent to Prosecutor's Offices to inform them of the retesting procedure. The letters will be reviewed at the end of this meeting.

The Governor's Office has signed the MOU. The School of Medicine needs to sign the MOU. A meeting is set for next Tuesday with Jeff Linder and Joe Scodro. Johnston reported that he anticipates that the MOU will be fully executed at that meeting.

A question was asked as to whether or not Dr. Kriger has the authority to hire additional staff as needed. Board members agreed that Dr. Kriger has the authority to hire additional staff. Klaunig made a motion that Dr. Kriger be allowed to hire any additional staff needed and that positions be advertised through all professional organizations (SOFT, SOT, ASCLAD, etc.). Medler seconded the motion. Motion unanimously approved.

4. Klitzsch reported that the next Governor's Council Meeting on Impaired & Dangerous Driving is scheduled for Friday, September 16 at 12:30 p.m. in Government Center South. One of the agenda items will be an update on the status of the Indiana State Department of Toxicology. Chezem will present the Interim Report of the Board. A suggestion was made to invite Dr. Kriger to attend the meeting.
5. Board members acknowledged that sufficient notice was not given for today's meeting. Chezem asked Klitzsch to prepare a distribution list for meeting notifications which will include Dr. Kriger, Gary Brackett, Senator Wyss, Cris Johnston and Gloria Downham. Klitzsch noted that all meetings are posted on the Criminal Justice Institute website: www.in.gov/cji.

6. Board members noted that they would like to have the lab samples retested by the first of October, if possible. General discussion was held about whether or not the audit would continue. A decision will be made after reviewing the results of the retesting. Board members noted that retesting of blood for alcohol provides unique challenges in terms of sample denigration, specific blood alcohol level, etc.
7. Summerfield and Garten shared concerns that police officers are not recertifying as Breath Test Operators because they were waiting for the implementation of the Intoximeters. Agencies are concerned about having to pay for additional certifications. General discussion was held concerning the fact that training would need to be pro-rated or possibly waived in order to be fair to the police agencies.
8. The next meeting will be held on Friday, October 7 at 9:00 a.m. at the ISDT facility.
9. Medler made a motion to adjourn at 10:45 a.m. Klaunig seconded the motion. Motion passed.